

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

www.spb.ca.gov

Public Session Location - Room 150
Closed Session Location - Room 141

MID-MONTH BOARD MEETING MINUTES

JUNE 19, 2001

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Ron Alvarado, President
William Elkins, Vice President
Florence Bos, Member
Richard Carpenter, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. The California State Employees Association is planning a rally in front of the State Personnel Board on June 20, 2001, in support of ending delegated testing and non-discrimination and fair treatment of employees.
- B. The "Los Angeles Job Fair" was a huge success with over 4000 job seekers attending and 60 public and private agencies participating. The State Personnel Board tested on-site 1500 candidates for Office Assistant, 230 for Key Data Operator, and nearly 800 candidates took the typing test.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on the following:

Litigation:

- A. Department of Corrections (CDC) v. State Personnel Board (SPB) (McCormick) - CDC filed petition for writ challenging SPB's precedential decision that held that the Board has the authority to decide violations of the Peace Officers Procedural Bill of Rights so long as those issues have not been presented to the Superior Court for decision.

Other:

- A. Elise Rose and Matilda Bannerman-Richter, SPB staff, met with representatives from the Department of Fair Employment and Housing to contrast and compare mediation programs.

4. REPORT ON LEGISLATION - Judy Balmain

The Board was advised of the following:

- A. We are in the final stages of completing a marketing video, the video will highlight 13 key occupations within state government. The completion date is mid-July.

Status of Legislation:

- A. AB 619 (Wayne) - Would require that a state employee appointed to any state scientist class have at a minimum, a 4-year degree in a scientific discipline. The Governor's office has approved the Board's "oppose position."

BOARD ACTIONS

5. STATE PERSONNEL BOARD SUMMARY MINUTES OF JUNE 5, 2001

ACTION: Adopted on June 19, 2001.

VOTE: Alvarado, Elkins, Bos, Carpenter - Aye.

6. SUBMITTED ITEMS

ACTION: See pages 14-15.

7. ADMINISTRATIVE LAW JUDGE CASES

On June 19, 2001, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Alvarado, Elkins, Bos, Carpenter - Aye.

CHIEF COUNSEL RESOLUTION

RICHARD L. DEMERS, CASE NO. 35456

Appeal from dismissal

Correctional Sergeant

Wasco State Prison

Department of Corrections

ACTION: Set aside Board decision and adopted settlement agreement

PROPOSED DECISIONS

THOMAS BURLEY, CASE NO. 01-0978

Appeal from one-day suspension

Pelican Bay State Prison

Department of Corrections

ACTION: Suspension sustained

VICTOR V. FINK, Jr., CASE NO. 00-2363

Appeal from constructive medical termination

Officer, California Highway Patrol

Department of California Highway Patrol

ACTION: Constructive medical termination granted

MYRA O. CATA CUTAN, CASE NO. 00-3950

Appeal from rejection during probationary period

Certified Nursing Assistant

Department of Veterans Affairs

ACTION: Rejection during probationary period affirmed

DEANNA DAVIES, CASE NO. 99-0073B

Appeal from determination of back salary, benefits, and interest after reinstatement

Tax Technician I

State Board of Equalization

ACTION: Monies for medical granted and in all other respects denied

DEREK FINKS, CASE NO. 01-1033
Appeal from demotion
Senior Youth Correctional Counselor
Department of the Youth Authority
ACTION: Demotion from Senior Youth Correctional Counselor
to Youth Correctional Counselor revoked

GERARDO Z. HERNANDEZ, CASE NO. 00-3706
Appeal from five percent reduction in salary for six months
Correctional Sergeant
Department of Corrections
ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself

ALEXANDER KAIVAN, CASE NO. 00-3117
Appeal from 60 calendar days suspension
Correctional Officer
Department of Corrections
ACTION: 60 calendar days suspension modified to 20 calendar
days suspension

CONNIE JANE TABAREZ-GWILT, CASE NO. 99-3000
Appeal from rejection during probationary period Senior
Accounting Officer(Supervisor)
Office of Statewide Health Planning and Development
ACTION: Rejection during probationary period sustained

BOBBY WANG, CASE NO. 00-3642
Appeal from official reprimand
Motor Vehicle Field Representative
Department of Motor Vehicles
ACTION: Official reprimand sustained

LARRY RICHARDS, CASE NO. 99-3362/99-5244
Appeal from 30 calendar days suspension and dismissal
Maintenance Mechanic
Avenal State Prison
Department of Corrections
ACTION: 30 calendar days and dismissal sustained

ESTEVAN R. FERNANDEZ, CASE NO. 00-2534
Appeal from suspension for one pay period
Fire Captain
Appeal from demotion from the position of Fire Captain to
Fire Fighter II
Department of Forestry and Fire Protection
ACTION: Suspension revoked and demotion from Fire Captain
to Fire Fighter II sustained

YAN SUM DOMINGUEZ, CASE NO. 00-1905
Appeal of discrimination and retaliation
Parole Agent III
Department of Corrections
ACTION: Discrimination/retaliation complaint dismissed

SHARON WERTH, CASE NO. 00-3556
Appeal from rejection during probationary period
Senior Psychiatric Technician
Department of Developmental Services
ACTION: Rejection during probationary period sustained

PETITIONS FOR REHEARING

BARBARA S. CHAPMAN, CASE NO. 00-3120P
Appeal from reinstatement
Assistant Professor
San Marcos - California State University
California State University
ACTION: Petition for rehearing filed by
Appellant denied

KATHLEEN DONNELL, CASE NO. 00-3838P
Appeal from one step reduction in
salary for six months
Motor Vehicle Field Representative (Range B)
Department of Motor Vehicles
ACTION: Petition for rehearing filed by
Appellant denied

8. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION.

ACTION: See pages 16-19.

9. WITHHOLD APPEALS

On June 19, 2001, the Board adopted the following decision
presented by Walter Vaughn, Executive Officer, California
State Personnel Board.

VOTE: Alvarado, Elkins, Bos, Carpenter - Aye.

A. BRIAN W. PONTIUS, CASE NO. 00-1921
Classification: Correctional Officer
Department of Corrections
ACTION: GRANTED

- B. ALMA DIAZ, CASE NO. 00-3758
Classification: Correctional Officer
Department of Corrections
ACTION: GRANTED
- C. ROBERT STERNI, CASE NO. 00-3579
Classification: Youth Correctional Officer
Department of the Youth Authority
ACTION: GRANTED
- D. JAIME LIRA, CASE NO. 00-3575
Classification: Cadet, CHP
Department of California Highway Patrol
ACTION: DENIED
- E. MICHAEL FRANCO, CASE NO. 00-3572
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED
- F. RODERICK N. PASCUA, CASE NO. 00-3266
Classification: Medical Technical Assistant
Department of Corrections
ACTION: DENIED
- G. KRISTIN A. FOOTE, CASE NO. 00-3576
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED
- H. RONALD S. JOHNSON, CASE NO. 00-3582
Classification: Cadet, CHP
Department of California Highway Patrol
ACTION: DENIED
- I. ALBERT GUTIERREZ, CASE NO. 00-3227
Classification: Cadet, CHP
Department of California Highway Patrol
ACTION: DENIED
- J. BETTY WALTON, CASE NO. 00-3205
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED
- K. RICHARD L. HALLIBURTON, CASE NO. 00-3859
Classification: Correctional Officer

Department of Corrections
ACTION: DENIED

L. MYSTIQUE D. REZA, CASE NO. 00-3793
Correctional Officer
Department of Corrections
ACTION: DENIED

M. BRADLEY S. BECKER, CASE NO. 00-2719
Hospital Police Officer I
Department of Mental Health
ACTION: DISMISSED

N. RANDALL L. JONES, CASE NO. 00-2313
CT Landscape Maintenance Worker
Department of Transportation
ACTION: DISMISSED

10. MEDICAL APPEALS

On June 19, 2001, the Board adopted the following decision presented by Walter Vaughn, Executive Officer, California State Personnel Board.

VOTE: Alvarado, Elkins, Bos, Carpenter - Aye.

A. PAMELA CLARK-HOLMES, CASE NO. 01-0675
Classification: Parole Agent I, Adult Parole
Department of Corrections
ACTION: DENIED

B. PETER INOUE, CASE NO. 01-0615
Classification: Parole Agent I, Adult Parole
Department of Corrections
ACTION: DENIED

C. ROBERT GEBALA, CASE NO. 00-3614
Classification: Cadet, California Highway Patrol
Department of California Highway Patrol
ACTION: DENIED

D. RYAN BERA, CASE NO. 00-4290
Classification: Correctional Officer
Department of Corrections
ACTION: WITHDRAWN

E. RUTH RICCI, CASE NO. 00-3671
Classification: Youth Correctional Counselor
Department of the Youth Authority
ACTION: DENIED

- F. TONY STANLEY, CASE NO. 01-0293
Classification: Cadet, CHP
Department of California Highway Patrol
ACTION: DISMISSED
 - G. DAVID ERSKINE, CASE NO. 01-0330
Classification: Food and Drug Inspector
Department of Health Services
ACTION: DISMISSED
 - H. TERRA PORTER, CASE NO. 01-0842
Classification: Cadet, CHP
Department of California Highway Patrol
ACTION: DISMISSED
 - I. DAVID HALL, CASE NO. 01-1247
Classification: Youth Correctional Officer
Department of the Youth Authority
ACTION: DISMISSED
11. MERIT ISSUE COMPLAINT
On June 19, 2001, the Board adopted the following decision presented by Walter Vaughn, Executive Officer, California State Personnel Board.
VOTE: Alvarado, Elkins, Bos, Carpenter - Aye.
- A. BILL LAMASCUS, CASE NO. 01-0542
Classification: Associate Transportation Engineer
Department of Transportation
ACTION: DISMISSED
12. NON-HEARING CALENDAR
On June 19, 2001, the Board adopted items A-C. These items were presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.
VOTE: Alvarado, Elkins, Bos, Carpenter - Aye.
- A. ASSISTIVE TECHNOLOGY SPECIALIST SERIES
The Department of Developmental Services proposes to retitle the class of Assistive Technology Specialist I; proposes to revise the specification; and proposes to abolish the class of Assistive Technology Specialist II when it becomes vacant.

- B. SPECIAL ASSISTANT PERMITS AND REGULATIONS
The California Department of Food and Agriculture proposes to revise the specification for Special Assistant, Permits and Regulations and to increase the probationary period to 12 months.
- C. PERSONNEL SERVICES SERIES
PERSONNEL SERVICES SPECIALIST I
PERSONNEL SERVICES SPECIALIST II
PERSONNEL SERVICES SPECIALIST III
SENIOR PERSONNEL SPECIALIST
PAYROLL SERVICES SERIES
PAYROLL SERVICES SPECIALIST I
PAYROLL SERVICES SPECIALIST II
SENIOR PAYROLL SPECIALIST
Proposed retitle, consolidation and revision of the Personnel Services Specialist I and II classifications; proposed retitle and revision of the Personnel Services Supervisor II and III classifications; proposed retitle, consolidation and revision of the Payroll Services Specialist I and II classifications; proposed retitle and revision of the Payroll Services Supervisor I; proposed establishment of the classes of Senior Personnel Specialist and Senior Payroll Specialist with 12 month probationary periods; proposed revision of Alternate Range Criteria 125; and proposed abolishment of the Personnel Services Supervisor I and Payroll Services Supervisor I classifications when they become vacant.

13. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

Staff has approved the following:

- A. STRUCTURAL DESIGN TECHNICIAN
The Department of Transportation proposes to revise the minimum qualifications for the class of Structural Design Technician I in order to broaden recruitment.
- B. HOSPITAL POLICE OFFICER (HPO) SERIES
The Department of Mental Health proposes to revise the specification for the Hospital Police Officer series to require completion of the training requirements before appointment to the class rather than the examination process.

14. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

(1) BUSINESS PROJECT MANAGER, REVENUE DATABASE CONSOLIDATION PROJECT

The Board of Equalization proposes to allocate the above position to the CEA category. The Business Project Manager, Revenue Database Consolidation Project, will be responsible to manage all aspects of the Revenue Database Consolidation Project, a five-year, \$20 million project to consolidate the business needs of 19 Special Taxes Department programs into the Board of Equalization's existing integrated corporate database environment. The department indicates that the position is at the third organizational level and will report to the Chief, Technology Services Division.

(2) DEPUTY ASSISTANT SECRETARY FOR NATURAL RESOURCES

The California Resources Agency proposes to allocate the above position to the CEA category. The Deputy Assistant Secretary will be responsible for providing policy direction and leadership for the Natural Resources Program, involving policy development and providing key scientific advice in all areas of this program. The department indicates that the position is at the second organizational level and will report to the Undersecretary for Resources.

(3) ENERGY COMMODITY MANAGER

The Department of Water Resources proposes to allocate the above position to the CEA category. The Energy Commodity Manager will be responsible for overseeing energy transacting activities associated with building and managing a \$10 billion procurement portfolio. This will include strategy development, short term and long term power procurement and portfolio hedging (both financial and physical). The incumbent will also be responsible for identifying transacting opportunities, enforcing transacting controls and updating the California Energy Resources Scheduling Division's management and government officials on commodity costs and exposures. The department indicates that the position is at the

third organizational level and will report to the Deputy Director of the California Energy Resources Scheduling Division.

- (4) ENERGY MARKET ANALYSIS AND FISCAL MANAGER
The Department of Water Resources proposes to allocate the above position to the CEA category. The Energy Market Analysis and Fiscal Manager will provide this state-wide direction, oversight and coordination of the California Energy Resources Scheduling Division's market analysis, risk management, bond financing, billings and collections, credit management and regulatory interfaces with the Public Utilities Commission and the Independent System Operator. The department indicates that the position is at the third organizational level and will report to the Deputy Director of the California Energy Resources Scheduling Division.
- (5) ENERGY RELIABILITY MANAGER
The Department of Water Resources proposes to allocate the above position to the CEA category. The Energy Reliability Manager will direct staff that is trading, scheduling, reconciling and finalizing settlements of almost \$50 million a day in energy transactions. The incumbent will oversee the information technology staff which keeps the trade room operating 24 x 7, maintaining security of sensitive market information and providing a backup system as well as serving the information technology needs of the rest of the organization. The department indicates that the position is at the third organizational level and will report to the Deputy Director of the California Energy Resources Scheduling Division.
- (6) CHIEF, OFFICE OF PRIVACY PROTECTION
The Department of Consumer Affairs proposes to allocate the above position to the CEA category. The Chief, Office of Privacy Protection is responsible for the overall management, direction and coordination of the Office of Privacy Protection, including developing new policies, procedures and strategic plans for the Office, and management and operation of the Office. The department indicates that the position is at the second organizational level and will report to the Directorate.

- (7) PROGRAM MANAGER, CALIFORNIA FUEL CELL PARTNERSHIP
The Air Resources Board proposes to allocate the above position to the CEA category. The California Fuel Cell Partnership (CaFCP) Program Manager directs a team of inter-disciplinary staff from 29 industry and government partners charged with implementing the CaFCP's vehicle and fueling demonstration and strategic planning programs. The CaFCP Program Manager is responsible for managing all aspects of the CaFCP program, including vehicle and fueling demonstrations and implementation of commercialization activities. The department indicates that the position is at the second organizational level and will report to the Chief Deputy Executive Officer.
- (8) CHIEF, DIVISION OF SURVEYS
The Department of Managed Health Care proposes to allocate the above position to the CEA category. The Chief, Division of Surveys will be responsible for managing the survey program to ensure compliance with recent legislative amendments to health care service plans requirements for member access to care, utilization review, quality of care, preventative health services, and consumer grievance systems. The department indicates that the position is at the third organizational level and will report to the Assistant Deputy Director, Office of Health Plan Oversight.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO
ESTABLISH NEW CEA POSITIONS

None Submitted.

C. REQUESTS TO REFILL CEA POSITIONS ESTABLISHED BETWEEN
6/30/95 AND 1/1/99

****CORRECTION TO THE May 2, 2001 AGENDA****

- (1) ASSISTANT CHIEF, APPELLATE OPERATIONS
The California Unemployment Insurance Appeals Board's request to refill the above position did not require the State Personnel Board's approval

June 19, 2001

because the position was created or converted
prior to June 30, 1995.

- D. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO
REFILL CEA POSITIONS ESTABLISHED BETWEEN 6/30/95
AND 1/1/99

- (1) DEPUTY COMMISSIONER, CONSUMER SERVICES & MARKET
CONDUCT BRANCH

The Department of Insurance's request to refill
the above position has been approved effective May
23, 2001.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. CHARLES ALEXANDER, CASE NO. 98-2769 AND RICHARD NEWTON, CASE NO. 98-2769. Appeals from whistleblower/retaliation complaints. Department of Corrections. (Oral argument held April 5, 2001).

NO ACTION

2. JOSEPH F. KENNEY, CASE NO. 00-0042. Appeal from dismissal. Department of Justice. (Oral argument held April 5, 2001).

ACTION: On June 19, 2001, adopted Board decision sustaining dismissal.

VOTE: Alvarado, Bos, Carpenter - Aye.

Elkins and Harrigan - Dissent.

3. STAFFORD LEWIS, CASE NO. 99-5021. Appeal from dismissal. Department of Corrections. (Oral argument held April 6, 2001).

NO ACTION

4. CURRY THOMAS, CASE NO. 00-2233. Appeal from 90-calendar days suspension. Department of Water Resources. (Oral argument held May 1, 2001).

NO ACTION

5. JESSE BROWN, CASE NO. 98-0384. Appeal from constructive medical termination. Department of General Services. (Presented to Board May 22, 2001).

NO ACTION

6. LIEM C. VU, CASE NO. 00-1743. Appeal from dismissal. Department of Veterans Affairs. (Oral argument held June 5, 2001).

NO ACTION

7. DUANE SCHNEIDER, CASE NO. 00-3561. Appeal from five working days suspension. Department of Motor Vehicles.
(Oral argument held June 5, 2001).

NO ACTION

8. MICHAEL STATON, CASE NO. 99-3155. Appeal from discrimination complaint. Department of Justice
(Oral argument held June 5, 2001).

NO ACTION

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

June 19, 2001

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on June 19, 2001.

WALTER VAUGHN
Executive Officer
California State Personnel Board

VOTE: Alvarado, Elkins, Bos, Carpenter - Aye.